IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

SUIT NO.1549 OF 1995

Mr.Manoj M.Javeri ...Plaintiff

V/s.

M/s.Finolex Cables Ltd. & Ors. ...Defendants

.....

Mrs.Shaila Pathak for Plaintiff.

None for Defendants.

.....

CORAM: A.M.KHANWILKAR, J.

AUGUST 1, 2007.

P.C.

1. None appears for the Defendants, though served. No Written Statement has been filed.

2. This Suit has been placed under caption Undefended Suit in terms of the order dated 31st March 2007. Inspite of that order, as no Written Statement has been filed on record, the Suit has to proceed as Undefended Suit.

3. In substance, the case of the Plaintiff is

that the Plaintiff acted as share broker of Defendant No.5. The Plaintiff procured 150 shares from Defendants 2 to 4 belonging to Defendant No.1 Company for and on behalf of Defendant No.5. The shares were presented for transfer to be made in favour of Defendant No.5. However, the Defendant No.1 Company informed that the signatures appearing on the transfer form were not tallying with the signatures of Defendants 2 to 4 as per their record. As the shares were returned back, the Defendant No.5 called upon the Plaintiff to make good the consideration amount. Accordingly, the Plaintiff paid-off all the dues of Defendant No.5. The Plaintiff instead, had to pursue the matter with the Defendant No.1 for transfer of those shares. As the representations made, did not fructify, the Plaintiff has approached this Court by way of present Suit. The amended reliefs as prayed by the Plaintiff reads thus:

> "(ai) That this Honourable Court be pleased to issue a mandatory order directing the Defendant No.1 Company to transfer 150 suit shares + 450 Bonus shares bearing share Certificate Nos.24404, 25150, 29654 and Folio

Nos.K-00653, K-01399, P-00653 and Distinctive Nos.1359976-60025, 1388776-825, 1568426, 50 shares each in favour of the Plaintiff.

(aii) That in the alternative this Honourable Court be pleased to issue a mandatory order directing the Defendant No.1 company to issue Duplicate Share Certificate bearing Share Certificate Nos.24404, 25150, 29654 and Folio Nos.K-00653, K-01399, P-00653 and Distinctive Nos.1359976-60025, 1388776-825, 1568426-475, 50 shares each."

4. As mentioned earlier, none appears for the Defendants though served. No Written Statement has been filed on behalf of the Defendants. On the other hand, Plaintiff has filed affidavit of evidence sworn on 10th April 2007 as well as affidavit of documents of the same date. The Plaintiff has placed on record all relevant documents in the form of correspondence between the parties which supports the claim of the Plaintiff. The Plaintiff has also tendered original share certificate of 150 shares with distinctive numbers which was purchased from Defendants 2 to 4. The original Share Certificate has been returned to the Advocate for the Plaintiff. The xerox copy thereof has been placed on record which has been attested

by the Advocate for the Plaintiff as true copy. The Plaintiff has filed further affidavit dated 1st August 2007 in the context of amended prayers in the Plaint.

5. From the pleadings of the Plaintiff in the evidence of the Plaintiff as well as the documentary evidence pressed into service, the case made out by the Plaintiff of purchase of shares from Defendants 2 to 4 and the rejection of transfer request by the Defendant No.1, is substantiated. In the circumstances, the Plaintiff is entitled for the relief as claimed in the Plaint more particularly, in terms of prayer clause (ai), as the Plaintiff would be entitled for the bonus shares ascribable to the original 150 shares purchased by the Plaintiff.

6. Accordingly, in exercise of powers under Order VIII Rule 10 of the Code of Civil Procedure, 1908, I proceed to decree the Suit in terms of (ai) with costs. Decree be drawn up accordingly.

7. Issuance of decree be expedited.

A.M.KHANWILKAR, J.